IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 5TH MARCH 2007 / 14TH PHALGUNA 1928

Crl.Rev.Pet.No. 836 of 1998()

CRA.323/1995 of SESSIONS COURT, THRISSUR
CC.145/1993 of JUDL. MAGISTRATE OF FIRST CLASS COURT, VADAKKANCHERY

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REVN. PETITIONER: APPELLANT/ACCUSED

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1. MARAKKAR, AGED 30 YEARS
   S/O.KUTTY HASSAN
   KUNNETHUPEEDIKAYIL HOUSE
   MULLOORKARA VILLAGE, THRISSUR DT.

2. SIDHI, AGED 24
   S/O.KUTTY HASSAN
   KUNNETHUPEEDIKAYIL HOUSE
   MULLOORKARA VILLAGE, THRISSUR DT.

BY ADV. SRI.P.SANTHALINGAM

RESPONDENT: RESPONDENT

STATE OF KERALA
REPRESENTED BY PUBLIC PROSECUTOR

BY PUBLIC PROSECUTOR SRI.KAMMAPPU

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 05/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

CRL.R.P.NO.836/1998

ORDER ON CRL.M.P.NO.4234/1998 IN CRL.R.P.NO.836/1998

DISMISSED

5.3.2007 Sd/- K.R.UDAYABHANU, JUDGE

/TRUE COPY/

P.A. TO JUDGE

K.R.UDAYABHANU, J

CRL.R.P.No.836 of 1998

Dated this the 5th day of March, 2007

ORDER

Revision petitioner stands convicted and sentenced, as modified by the appellate court, to undergo rigorous imprisonment for 15 days each for the offences under Sections 323 and 341 IPC and also to pay an amount of Rs.2,000/- each under Section 357(3) of Criminal Procedure Code and in default, to undergo simple imprisonment for a period of three months each.

2. The prosecution case is that on 23.4.1993, at about 5.30 p.m. the accused, on account of previous enemity, attacked Cws 1 and 2, the wife and husband respectively. The accused was charge sheeted for the offences under Sections 341 and 324 read with 34 IPC and the trial court convicted them for the above offences. The evidence adduced consisted the testimony of PWs 1 to 8, Exts. P1 to P5 and DW1 defence witness i.e, father of the accused. I find that the evidence of PW3 and PW4, the occurrence witnesses and the evidence of PW8, the doctor who

examined PWs 1 and 2 and Exts. P4 and P5 wound certificates produced do clearly establish the prosecution case as alleged. No contradictions or omissions with respect to the previous statements of the above witnesses have been brought out through the evidence of the investigating officer. In the circumstances, I find no reasons to deviate from the findings of the appellate court. The conviction is confirmed.

3. The counsel for the revision petitioner has prayed for leniency. It is pointed out that in fact the accused had helped the injured and that gold ornaments belonging to the wife of A1 was given to PW2 for pledging to raise amounts for an emergency. Thereafter PW1 indulged in scandalize propaganda against the accused. PW2 has admitted that the ornaments belonging to the wife of A1 has given for raising the amounts and the same were redeemed and it was given back only after the incident. It is only pointed out that the incident has taken place in the year of 1993 and so far as the accused was facing the ordeal of prosecution and the impending imprisonment. In the circumstances, I find that the sentence is liable to be modified.

The sentence under Section 324 is modified to imprisonment till the rising of the court and to pay a compensation of Rs.5,000/- each under Section 357(3) of Code of Criminal Procedure and in default, to undergo simple imprisonment for one month each. No separate sentence is awarded for the offence under Section 341 IPC. The revision petitioner shall appear before Judicial First Class Magistrate Court, Vadakkancherry on 12.4.2007 to receive the sentence. Non bailable warrant, if any, pending shall be kept in abeyance till 12.4.2007.

The Criminal Revision Petition is disposed of as above.

K.R.UDAYABHANU,
JUDGE

csl

K.R.UDAYABHANU, J

Crl.R.P.No.929 of 1997

ORDER

26th February, 2007